

REMARKS

Applicants, through the attorney, respectfully request the Examiner to reconsider and withdraw the outstanding rejections of the claims for the reasons set forth below.

Claims 1 through 24 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1 through 18 of Copending Application Number 10/603,517; and further, being unpatentable with claims 1 through 8 and 10 through 21 of Copending Application Number 10/603,894; and over claims 1 through 17 of Copending Application Number 10/964,435.

Applicants hereby state that this patent application and the above identified copending applications are all commonly owned at the time of the invention and when the application was made. The application and all copending applications are assigned to The Lubrizol Corporation. Therefore, this would preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case and under 35 U.S.C.102(f) or (g) or (e). Further, Applicants have filed a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) to overcome an actual or provisional rejection that the patent application as is shown to be commonly owned with this application. Accordingly, these provisional rejections should be removed.

Claims 1 through 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Higton, et al., (6,310,010). The Examiner is of the position that Higton, et al. meets the limitations of the claims when the dispersant, detergent and antioxidant combination in a package forms a gel. Further, the Examiner took the position that, although reducing the emissions is not taught by Higton, et al., but it is inherent because Higton, et al. teaches that gels are suitable for use in lubricants and gasoline and diesel engines.

Applicants have amended claim 1 to define the formula of the gel as being three (3) different components, which are not identical to nor taught by the Higton, et al. reference. Accordingly, the 35 U.S.C. 102(b) rejection should be withdrawn.

Furthermore, Applicants' invention is novel and unobvious over the Higton, et al. in that the Higton, et al. does not teach the controlled release of a composition. Furthermore, the Higton, et al. reference does not teach Applicants' gel made up of three different components would make a gel that is controlled release of the additives in the gel composition.

Higton, et al. teaches column 3, lines 31 to 34 that "the present invention solves the problem of increased viscosity when high molecular-weight dispersants and overbased

detergents are blended by the use of a surface active agent". Higton, et al. teaches a composition that requires a surface active agent, a dispersant and a detergent, see column 3, lines 34 through 37. In contrast, Applicants' gel composition is represented by the formula A + B + C, as amended in claim 1, and is a different composition in that it does not require a surface active agent. Applicants' gel composition is not taught or suggested by the Higton, et al. reference.

Higton, et al. further discloses at column 2, lines 38 through 40, that "the viscosity may rise uncontrollably to the extent that gels may form that are impossible to blend into a finished lubricating oil composition. The latter effect can evidence itself as Weisenberg Effect". Additionally, Higton, et al. teaches at column 3, lines 49 through 50, that "the inclusion of the surface active agent enables the viscosity of the concentrate to be controlled within manageable limits". Therefore, Higton, et al. teaches away from Applicants' claimed invention because Higton, et al. teaches to inhibit gelation and not Applicants' lubricant added gel that requires gelation of its additive components. Further, Higton, et al. teaches away from Applicants' claimed invention in that Higton, et al. teaches that the overbased detergent and dispersants are impossible to blend into a finished lubricating oil composition. Applicants have shown that gels can, in fact, be blended into finished oils. Further, Applicants' gel releases components over time. In contrast, Higton, et al.'s composition does not release components into the fluid at all. Thus, Applicants' invention that claims as a gelled composition, as identified in claim 1, as amended, is neither suggested nor taught by Higton, et al. Accordingly, this rejection should be withdrawn.

Furthermore, claims 11 through 22 are neither taught by nor obvious from the Higton, et al. reference in that claims 11 through 22 relate to a process of contacting a portion of the engine oil with a gel resulting in the reduction of soot in the engine oil and/or emission in an engine exhaust. This is neither taught by nor obvious from the Higton, et al. reference. Accordingly, Claims 11 through 22 should be allowable over the Higton, et al.

Claims 1 through 24 rejected under 35 U.S.C. 102(b) as being anticipated by Burrington et al., (6,843,916). The Burrington et al. reference should be withdrawn as a reference, as it is commonly assigned to The Lubrizol Corporation. Applicants hereby submit a terminal disclaimer thus removing this as a reference. Additionally, the Burrington et al. does not disclose the gel as represented by the formula as now claimed in claim 1. Furthermore, Burrington et al. does not teach the lubricant additive gel to be used in the reduction of soot or decrease the amount of emissions in an engine exhaust. Accordingly, the


35 U.S.C. 102(b) rejection should be withdrawn. Furthermore, the Burrington et al. reference should be withdrawn because it is commonly assigned to The Lubrizol Corporation. Applicants hereby submit a terminal disclaimer to remove it as a reference.

In summary, Applicants have shown that their invention, is neither anticipated by nor obvious over the recited references. Accordingly, Applicants request the Examiner to reconsider her position in view of this response and withdraw the rejections. If the Examiner feels a telephone conference would expedite the issuance of this application Applicants request eh Examiner to call Applicants.

If any fees are due, the Commissioner is authorized to charge those fees to The Lubrizol Corporation deposit Account No. 12-2275. A duplicate copy of this document is enclosed for such purposes.

Respectfully submitted,

THE LUBRIZOL CORPORATION


Teresan W. Gilbert
Registration No. 31,360
Attorney for Applicants

29400 Lakeland Blvd.
Wickliffe, Ohio 44092-2298
Telephone: 440-347-5072
Facsimile: 440-347-1110